

OMNIBUS MARITIME IMPROVEMENTS ACT OF 2001

OCTOBER 16, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 2481]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 2481) to improve maritime safety and the quality of life for Coast Guard personnel, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Omnibus Maritime Improvements Act of 2001”.

SEC. 2. EXTENSION OF COAST GUARD HOUSING AUTHORITIES.

(a) HOUSING CONTRACTORS.—Section 681(a) of title 14, United States Code, is amended by inserting “, including a small business concern qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)),” after “private persons”.

(b) BUDGET AUTHORITY LIMITATION.—Section 687(f) of title 14, United States Code, is amended by striking “\$20,000,000” and inserting “\$40,000,000”.

(c) DEMONSTRATION PROJECT.—Section 687 of title 14, United States Code, is amended by adding at the end the following new subsection:

“(g) DEMONSTRATION PROJECT AUTHORIZED.—To promote efficiencies through the use of alternative procedures for expediting new housing projects, the Secretary—

“(1) may develop and implement a Demonstration Project for acquisition or construction of military family housing and military unaccompanied housing at the Coast Guard installation at Kodiak, Alaska;

“(2) in implementing the Demonstration Project shall utilize, to the maximum extent possible, the contracting authority of the Small Business Administration’s section 8(a) program;

“(3) shall, to the maximum extent possible, acquire or construct such housing through contracts with small business concerns qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) that have their principal place of business in the State of Alaska; and

“(4) shall report to Congress by September 1 of each year on the progress of activities under the Demonstration Project.”.

(d) EXTENSION.—Section 689 of title 14, United States Code, is amended by striking “2001” and inserting “2006”.

SEC. 3. VESSELS FOR CABLE LAYING.

(a) REQUIREMENT.—Only eligible vessels may be used after the date of enactment of this Act in the course of—

- (1) laying a submarine cable between 2 landings in the United States;
- (2) making a shore landing of a submarine cable in the United States;
- (3) laying or burying a submarine cable on or under the lands beneath the navigable waters of the United States; or
- (4) servicing or maintaining a submarine cable—
 - (A) between 2 landings in the United States, or
 - (B) on or under the lands beneath the navigable waters of the United States,
 if that cable is owned by, operated by, or operated for the United States Government.

(b) DEFINITION.—For purposes of this section—

- (1) the term “eligible vessel” means—
 - (A) a United States-flag vessel, if before July 1, 2001, it was a United States-flag vessel used in the course of any of the services specified in paragraphs (1) through (4) of subsection (a); or
 - (B) a vessel documented under section 12105 of title 46, United States Code; and
- (2) the term “navigable waters of the United States” includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.

SEC. 4. VESSEL ESCORT OPERATIONS AND TOWING ASSISTANCE.

(a) IN GENERAL.—Except in the case of a vessel in distress, only a vessel of the United States (as that term is defined in section 2101 of title 46, United States Code) may perform the following vessel escort operations and vessel towing assistance within the navigable waters of the United States:

- (1) Operation or assistance that commences or terminates at a port or place in the United States.
- (2) Operation or assistance required by United States law or regulation.
- (3) Operation provided in whole or in part for the purpose of escorting or assisting a vessel within or through navigation facilities owned, maintained, or operated by the United States Government or the approaches to such facilities, other than facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

(b) DEFINITIONS.—In this section—

- (1) the term “towing assistance” means operation by an assisting vessel in direct contact with an assisted vessel (including hull-to-hull, by towline, including if only pretethered, or made fast to that vessel by one or more lines) for purposes of exerting force on the assisted vessel to control, or to assist in controlling, the movement of the assisted vessel; and
- (2) the term “escort operations” means accompanying a vessel for the purpose of providing towing or towing assistance to the vessel.

(c) PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than \$10,000 for each day during which the violation occurs.

SEC. 5. SEARCH AND RESCUE CENTER STANDARDS.

(a) IN GENERAL.—Title 14, United States Code, is amended by adding at the end of chapter 17 the following new section:

“§ 676. Search and rescue center standards

“(a) The Secretary shall establish, implement, and maintain the minimum standards necessary for the safe operation of all Coast Guard search and rescue center facilities, including with respect to the following:

- “(1) The lighting, acoustics, and temperature in the facilities.
- “(2) The number of individuals on a shift in the facility assigned search and rescue responsibilities (including communications), which may be adjusted based on seasonal workload.
- “(3) The length of time an individual may serve on watch to minimize fatigue, based on the best scientific information available.
- “(4) The scheduling of individuals having search and rescue responsibilities to minimize fatigue of the individual when on duty in the facility.
- “(5) The workload of each individual engaged in search and rescue responsibilities in the facility.

“(6) Stress management for the individuals assigned search and rescue responsibilities in the facilities.

“(7) The design of equipment and facilities to minimize fatigue and enhance search and rescue operations.

“(8) Any other requirements that the Secretary believes will increase the safe operation of the search and rescue centers.

“(b) An individual on duty or watch in a Coast Guard search and rescue center facility, including a communications center, may not work more than 12 hours in a 24-hour period except in an emergency.”.

(b) APPLICATION.—Section 676(b) of title 14, United States Code (as enacted by subsection (a) of this section) shall apply beginning on July 1, 2002.

(c) PRESCRIPTION OF STANDARDS.—The Secretary shall prescribe the standards required under section 676(a) of title 14, United States Code, as enacted by subsection (a) of this section, before July 1, 2002.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by adding at the end the following:

“676. Search and rescue center standards.”.

SEC. 6. VHF COMMUNICATIONS SERVICES.

The Secretary of Transportation may authorize a person providing commercial VHF communications services to place commercial VHF communications equipment on Coast Guard owned or controlled property (including towers) subject to any terms agreed to by the parties. The Secretary and that commercial VHF communications service provider also may enter into an agreement providing for VHF communications services to the Coast Guard (including digital selective calling and radio direction finding services) at a discounted price based on providing such access to property owned or controlled by the Coast Guard.

SEC. 7. LOWER COLUMBIA RIVER MARITIME FIRE AND SAFETY ACTIVITIES.

There is authorized to be appropriated to the Secretary of Transportation not more than \$987,400 for lower Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Maritime Fire and Safety Association.

SEC. 8. CONFORMING REFERENCES TO THE FORMER MERCHANT MARINE AND FISHERIES COMMITTEE.

(a) LAWS CODIFIED IN TITLE 14, UNITED STATES CODE.—(1) Section 194(b)(2) of title 14, United States Code, is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(2) Section 663 of title 14, United States Code, is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(3) Section 664 of title 14, United States Code, is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(b) LAWS CODIFIED IN TITLE 33, UNITED STATES CODE.—(1) Section 3(d)(3) of the International Navigational Rules Act of 1977 (33 U.S.C. 1602(d)(3)) is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(2) Section 5004(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2734(2)) is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(c) LAWS CODIFIED IN TITLE 46, UNITED STATES CODE.—(1) Section 6307 of title 46, United States Code, is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(2) Section 901g(b)(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241k(b)(3)) is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(3) Section 913(b) of the International Maritime and Port Security Act (46 App. U.S.C. 1809(b)) is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

SEC. 9. RESTRICTION ON VESSEL DOCUMENTATION.

Section 12108(a) of title 46, United States Code, is amended by—

(1) amending paragraph (2) to read as follows:

“(2) was built in the United States;”;

(2) striking “and” at the end of paragraph (3);

(3) inserting after paragraph (3) the following:

“(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and”;

(4) redesignating paragraph (4) as paragraph (5).

SEC. 10. HYPOTHERMIA PROTECTIVE CLOTHING REQUIREMENT.

The Commandant of the Coast Guard shall ensure that all Coast Guard personnel are equipped with adequate safety equipment, including hypothermia protective clothing where appropriate, while performing search and rescue missions.

SEC. 11. RESERVE OFFICER PROMOTIONS.

(a) Section 729(i) of title 14, United States Code, is amended by inserting “on the date a vacancy occurs, or as soon thereafter as practicable, in the grade to which the officer was selected for promotion, or if promotion was determined in accordance with a running mate system,” after “grade”.

(b) Section 731(b) of title 14, United States Coast Code, is amended by striking the period at the end of the sentence and inserting “, or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he or she completes the following amount of service computed from the date of rank in the grade in which he or she is serving:

- “(1) two years in the grade of lieutenant (junior grade);
- “(2) three years in the grade of lieutenant;
- “(3) four years in the grade of lieutenant commander;
- “(4) four years in the grade of commander; and
- “(5) three years in the grade of captain.”.

(c) Section 736(a) of title 14, United States Code, is amended by inserting “the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event” after “subchapter.”.

SEC. 12. REGULAR LIEUTENANT COMMANDERS AND COMMANDERS; CONTINUATION UPON FAILURE OF SELECTION FOR PROMOTION.

Section 285 of title 14, United States Code, is amended—

- (1) by striking “Each officer” and inserting “(a) Each officer”; and
- (2) by adding at the end the following new subsections:

“(b) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.

“(c)(1) An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.

“(2) Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b) but is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.”.

SEC. 13. RESERVE STUDENT PRE-COMMISSIONING ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 21 of title 14, United States Code, is amended by inserting after section 709 the following new section:

“§ 709a. Reserve student pre-commissioning assistance program

“(a) The Secretary may provide financial assistance to an eligible enlisted member of the Coast Guard Reserve, not on active duty, for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

- “(1) a baccalaureate degree in not more than five academic years; or
- “(2) a post-baccalaureate degree.

“(b)(1) To be eligible for financial assistance under this section, an enlisted member of the Coast Guard Reserve must—

- “(A) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

- “(B) enter into a written agreement with the Coast Guard described in paragraph (2).
- “(2) A written agreement referred to in paragraph (1)(B) is an agreement between the member and the Secretary in which the member agrees—
- “(A) to accept an appointment as a commissioned officer in the Coast Guard Reserve, if tendered;
- “(B) to serve on active duty for up to five years; and
- “(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Coast Guard Reserve until the eighth anniversary of the date of the appointment.
- “(c) Expenses for which financial assistance may be provided under this section are—
- “(1) tuition and fees charged by the institution of higher education involved;
- “(2) the cost of books;
- “(3) in the case of a program of education leading to a baccalaureate degree, laboratory expenses; and
- “(4) such other expenses as deemed appropriate by the Secretary.
- “(d) The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed \$25,000 for any academic year.
- “(e) Financial assistance may be provided to a member under this section for up to five consecutive academic years.
- “(f) A member who receives financial assistance under this section may be ordered to active duty in the Coast Guard Reserve by the Secretary to serve in a designated enlisted grade for such period as the Secretary prescribes, but not more than four years, if the member—
- “(1) completes the academic requirements of the program and refuses to accept an appointment as a commissioned officer in the Coast Guard Reserve when offered;
- “(2) fails to complete the academic requirements of the institution of higher education involved; or
- “(3) fails to maintain eligibility for an original appointment as a commissioned officer.
- “(g)(1) If a member requests to be released from the program and the request is accepted by the Secretary, or if the member fails because of misconduct to complete the period of active duty specified, or if the member fails to fulfill any term or condition of the written agreement required to be eligible for financial assistance under this section, the financial assistance shall be terminated. The member shall reimburse the United States in an amount that bears the same ratio to the total cost of the education provided to such person as the unserved portion of active duty bears to the total period of active duty such person agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty.
- “(2) The Secretary may waive the service obligated under subsection (f) of a member who is not physically qualified for appointment and who is determined to be unqualified for service as an enlisted member of the Coast Guard Reserve due to a physical or medical condition that was not the result of the member’s own misconduct or grossly negligent conduct.
- “(h) As used in this section, ‘institution of higher education’ has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”.

(b) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 21 of title 14, United States Code, is amended by adding the following new item after the item relating to section 709:

“709a. Reserve student pre-commissioning assistance program.”.

SEC. 14. CONTINUATION ON ACTIVE DUTY BEYOND THIRTY YEARS.

Section 289 of title 14, United States Code, is amended by adding at the end the following new subsection:

“(h) Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain the officer under this subsection.”.

SEC. 15. PAYMENT OF DEATH GRATUITIES ON BEHALF OF COAST GUARD AUXILIARISTS.

Section 823a(b) of title 14, United States Code, is amended by inserting the following new paragraph following paragraph (8):

“(9) On or after January 1, 2001, Public Law 104–208, section 651.”.

SEC. 16. ALIGN COAST GUARD SEVERANCE PAY AND REVOCATION OF COMMISSION AUTHORITY WITH DEPARTMENT OF DEFENSE AUTHORITY.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended—

(1) in section 281—

(A) by striking “**three**” in the section heading and inserting “**five**”; and

(B) by striking “three” in the text and inserting “five”;

(2) in section 283(b)(2)(A), by striking “severance” and inserting “separation”;

(3) in section 286—

(A) by striking “**severance**” in the section heading and inserting “**separation**”; and

(B) by striking subsection (b) and inserting the following:

“(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title who has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

“(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title, who has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10 as determined under regulations promulgated by the Secretary.

“(d) Notwithstanding subsections (a) or (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.”;

(4) in section 286a—

(A) by striking “**severance**” in the section heading and inserting “**separation**” in its place; and

(B) by striking subsections (a), (b), and (c) and inserting the following:

“(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

“(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

“(c) In determining a member’s years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.”; and

(5) in section 327—

(A) by striking “**severance**” in the section heading and inserting “**separation**”;

(B) by striking subsection (a)(2) and inserting in its place the following:

“(2) for discharge with separation benefits under section 286(c) of this title.”;

(C) by striking subsection (a)(3);

(D) by striking subsection (b)(2) and inserting in its place the following:

“(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge.”; and

(E) by striking subsection (b)(3).

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended—

(1) in the item relating to section 281, by striking “three” and inserting “five” in its place; and

(2) in the item relating to section 286, by striking “severance” and inserting “separation” in its place;

(3) in the item relating to section 286a, by striking “severance” and inserting “separation” in its place; and

(4) in the item relating to section 327, by striking “severance” and inserting “separation” in its place.

(c) EFFECTIVE DATE.—The amendments made by paragraphs (2), (3), (4), and (5) of subsection (a) shall take effect four years after the date of enactment of this Act,

except that subsection (d) of section 286 of title 14, United States Code, as amended by paragraph (3) of subsection (a) of this section shall take effect on enactment of this Act and shall apply with respect to conduct on or after that date. The amendments made to the table of sections of chapter 11 of title 14, United States Code, by paragraphs (2), (3), and (4) of subsection (b) of this section shall take effect four years after the date of enactment of this Act.

SEC. 17. LONG-TERM LEASE AUTHORITY FOR LIGHTHOUSE PROPERTY.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end a new section 672b to read as follows:

“§ 672b. Long-term lease authority for lighthouse property

“(a) The Commandant of the Coast Guard may lease to non-Federal entities, including private individuals, lighthouse property under the administrative control of the Coast Guard for terms not to exceed 30 years. Consideration for the use and occupancy of lighthouse property leased under this section, and for the value of any utilities and services furnished to a lessee of such property by the Commandant, may consist, in whole or in part, of non-pecuniary remuneration including, but not limited to, the improvement, alteration, restoration, rehabilitation, repair, and maintenance of the leased premises by the lessee. Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b) shall not apply to leases issued by the Commandant under this section.

“(b) Amounts received from leases made under this section, less expenses incurred, shall be deposited in the Treasury.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by adding after the item relating to section 672 the following:

“672b. Long-term lease authority for lighthouse property.”.

SEC. 18. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS.

(a) Section 3 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903) is amended—

- (1) in subsection (c)(1)(D) by striking “and”;
- (2) in subsection (c)(1)(E) by striking “United States.” and inserting “United States; and”; and
- (3) by inserting after subsection (c)(1)(E) the following:

“(F) a vessel located in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999, and (i) is entering the United States, (ii) has departed the United States, or (iii) is a hovering vessel as defined in 19 U.S.C. 1401(k).”.

(b) The second section 3 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1904) is amended—

- (1) by inserting “(a)” before “Any property”; and
- (2) by adding at the end the following:

“(b) Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under this chapter, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, inter alia, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of an offense under this chapter:

“(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

“(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

“(B) the presence of any compartment or equipment which is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

“(C) the presence of an auxiliary tank not installed in accordance with applicable law, or installed in such a manner as to enhance the vessel’s smuggling capability;

“(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

“(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

“(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

“(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

“(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

“(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel’s stated purpose.

“(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation, and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

“(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

“(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage, or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

“(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on a person aboard the vessel, of a quantity or other nature which reasonably indicates manufacturing or distribution activity.

“(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

“(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.”.

SEC. 19. WING-IN-GROUND CRAFT.

(a) Section 2101(35) of title 46, United States Code, is amended by inserting “a wing-in-ground craft, regardless of tonnage, carrying at least one passenger for hire, and” after the phrase “‘small passenger vessel’ means”.

(b) Section 2101 of title 46, United States Code, is amended by adding at the end the following:

“(48) wing-in-ground craft means a vessel that is capable of operating completely above the surface of the water on a dynamic air cushion created by aerodynamic lift due to the ground effect between the vessel and the water’s surface.”.

SEC. 20. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS FOR VESSELS.

Section 31321(a)(4) of title 46, United States Code, is amended—

- (1) by striking “(A)”; and
- (2) by striking subparagraph (B).

SEC. 21. DELETION OF THUMBPRINT REQUIREMENT FOR MERCHANT MARINERS’ DOCUMENTS.

Section 7303 of title 46, United States Code, is amended by striking “the thumbprint,”.

SEC. 22. TEMPORARY CERTIFICATES OF DOCUMENTATION FOR RECREATIONAL VESSELS.

(a) Section 12103(a) of title 46, United States Code, is amended by inserting “, or a temporary certificate of documentation,” after “certificate of documentation”.

(b)(1) Chapter 121 of title 46, United States Code, is amended by adding after section 12103 the following:

“§ 12103a. Issuance of temporary certificate of documentation by third parties

“(a) The Secretary of Transportation may delegate, subject to the supervision and control of the Secretary and under terms set out by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel, if the applicant for the certificate of documentation meets the requirements set out in sections 12102 and 12103 of this chapter.

“(b) A temporary certificate of documentation issued under section 12103(a) and subsection (a) of this section is valid for up to 30 days from issuance.”.

(2) The table of sections at the beginning of chapter 121 of title 46, United States Code, is amended by inserting after the item relating to section 12103 the following:

“12103a. Issuance of temporary certificate of documentation by third parties.”.

SEC. 23. MARINE CASUALTY INVESTIGATIONS INVOLVING FOREIGN VESSELS.

Section 6101 of title 46, United States Code, is amended—

- (1) by redesignating the second subsection (e) as subsection (f); and
- (2) by adding at the end the following new subsection:

“(g) To the extent consistent with generally recognized practices and procedures of international law, this part applies to a foreign vessel involved in a marine casualty or incident, as defined in the International Maritime Organization Code for the Investigation of Marine Casualties and Incidents, where the United States is a Substantially Interested State and is, or has the consent of, the Lead Investigating State under the Code.”.

SEC. 24. CONVEYANCE OF COAST GUARD PROPERTY IN HAMPTON TOWNSHIP, MICHIGAN.

(a) REQUIREMENT TO CONVEY.—

(1) IN GENERAL.—Notwithstanding any other law, the Secretary of Transportation (in this section referred to as the “Secretary”) shall convey to BaySail, Inc. (a nonprofit corporation established under the laws of the State of Michigan; in this section referred to as “BaySail”), without monetary consideration, all right, title, and interest of the United States in and to property adjacent to Coast Guard Station Saginaw River, located in Hampton Township, Michigan, as identified under paragraph (2). No submerged lands may be conveyed under this section.

(2) IDENTIFICATION OF PROPERTY.—The Secretary, in consultation with the Commandant of the Coast Guard, shall identify, describe, and determine the property to be conveyed under this section.

(3) SURVEY.—The exact acreage and legal description of the property conveyed under paragraph (1), as identified under paragraph (2), and any easements or rights-of-way reserved by the United States under subsection (b), shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by BaySail.

(b) TERMS AND CONDITIONS OF CONVEYANCE.—The conveyance of property under this section shall be made subject to any terms and conditions the Secretary considers necessary, including the reservation of easements and other rights on behalf of the United States.

(c) REVERSIONARY INTEREST.—

(1) IN GENERAL.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized by subsection (a), the real property conveyed pursuant to this section, at the option of the Secretary, shall revert to the United States and be placed under the administrative control of the Secretary, if—

(A) BaySail sells, conveys, assigns, exchanges, or encumbers the property conveyed or any part thereof;

(B) BaySail fails to maintain the property conveyed in a manner consistent with the terms and conditions under subsection (b);

(C) BaySail conducts any commercial activity at the property conveyed, or any part thereof, without approval of the Secretary; or

(D) at least 30 days before the reversion, the Secretary provides written notice to the owner that the property or any part thereof is needed for national security purposes.

(2) ADDITIONAL PERIOD.—The Secretary may, before the completion of the 5-year period described in paragraph (1), authorize an additional 5-year period during which paragraph (1) shall apply.

PURPOSE OF THE BILL

The primary purpose of H.R. 2481, the Omnibus Maritime Improvements Act of 2001, is to make a number of changes to U.S. maritime laws and U.S. Coast Guard authorities.

SECTION BY SECTION ANALYSIS OF H.R. 2481

SECTION 1. SHORT TITLE

This section states that the Act may be cited as the Omnibus Maritime Improvements Act of 2001.

SECTION 2. EXTENSION OF COAST GUARD HOUSING AUTHORITIES

The Coast Guard Authorization Act of 1996 provides the Coast Guard with the legal authorities to encourage private sector participation in the acquisition or construction of Coast Guard housing on or near Coast Guard installations.

Section 2 would extend the present Coast Guard housing authorities from October 1, 2001, to October 1, 2006. The Coast Guard is currently in the process of developing proposals for several potential housing projects using these new authorities.

This section further authorizes the Coast Guard to implement a demonstration project for the acquisition or construction of military family housing and military unaccompanied housing at the Coast Guard installation in Kodiak, Alaska.

SECTION 3. VESSELS FOR CABLE LAYING

Section 3 of H.R. 2481 requires that vessels engaged in laying a submarine cable between two landings in the United States, cable making a shore landing in the United States, and cable laid on or beneath the navigable waters of the United States, to be a U.S.-flag vessel if the cable is owned or operated by or for the United States Government. Nothing in this section affects the authority of the Secretary of Transportation under section 8103(b)(3)(C) of title 46, United States Code, to waive a citizenship requirement for the crew of a vessel on the grounds that qualified seamen who are citizens of the United States are not available. These vessels must either be U.S.-flag vessels involved in cable services before July 1, 2001, or have a certificate of documentation with a registry endorsement.

SECTION 4. VESSEL ESCORT OPERATIONS AND TOWING ASSISTANCE

Subsections (a) and (b) of section 4 were enacted into law as part of the Conference Report on the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001. This section requires that vessels engaged in towing assistance or towing escort be a vessel of the United States.

Subsection (c) of section 4 establishes a civil penalty for a person who violates this section. The penalty is not more than \$10,000 for each day during which the violation occurs.

SECTION 5. SEARCH AND RESCUE CENTER STANDARDS

Section 5 of the bill requires the Secretary of Transportation, by July 1, 2002, to prescribe and implement the minimum standards necessary for the safe operation of all Coast Guard search and rescue facilities including communications centers, groups, and stations that are engaged in search and rescue activities. The Secretary shall include standards related to lighting, acoustics, and temperature in the facilities; the number of individuals on a shift that conduct search and rescue responsibilities; the length of time an individual may serve on watch to minimize fatigue; the scheduling of individuals on watch to minimize fatigue; the workload of the individuals on watch; and stress management for these personnel. Many of these standards have been identified in Coast Guard studies such as "U.S. Coast Guard Station Staffing Study in Pursuit of Excellence: Building a Better Station" which was published in November 1991.

More recently, the Coast Guard Research and Development Center issued a report entitled "Workload and Crew Endurance Issues at USCG Communication Centers". The researchers focused on the Coast Guard District 17 Communications Center in Alaska. That

report stated that lighting should be “≥1,000 lux (about 2–2.5 times the light level normally recommended for office work”. In addition, it said that “the watch schedules seen in the District 17 Communications Center and at many Coast Guard units cause duty sections to rotate between day and night duty one or two times a week. This type of schedule causes jet-lag like symptoms and is detrimental to good alertness. It is often possible to restructure the watch schedule to either eliminate such rotations or to rotate more slowly (e.g. monthly) so that the body clock is able to adapt to the schedule and support alert performance during duty periods.”

The Committee is concerned about the fatigue of Coast Guard personnel that are required to be alert when on duty. Therefore, section 5 also prohibits, after July 1, 2002, any individual on duty or watch in a Coast Guard search and rescue center facility from working more than 12 hours in a 24 hour period, except in an emergency. This standard is the same as the current Coast Guard policy on 12-hour watches. The Committee does not intend for the Coast Guard to close any existing small boat stations or other facilities to implement this section. Therefore, the delayed implementation date was set to provide the Coast Guard sufficient time to train and assign any additional individuals to these operations centers, groups, and stations that may be needed. While this section does not apply to individuals that are assigned to vessels and aircraft, the Secretary should also ensure that fatigue standards are developed and implemented for these individuals.

SECTION 6. VHF COMMUNICATIONS SERVICES

Section 6 of H.R. 2481 authorizes the Coast Guard to allow private VHF Communications companies to place equipment and VHF towers on Coast Guard property. In exchange, the Coast Guard may receive discounted VHF communications services from these companies, including Digital Selective Calling services and radio direction finding services. The Committee believes that the Coast Guard could use this authority to help fill in the existing gaps in the Coast Guard’s VHF coverage as well as to provide digital selective calling and radio direction finding services in areas where the Coast Guard currently does not have that capability.

SECTION 7. LOWER COLUMBIA RIVER MARITIME FIRE AND SAFETY ACTIVITIES

Section 7 authorizes \$987,400 for the activities of the Lower Columbia River Maritime Fire and Safety Association.

SECTION 8. CONFORMING REFERENCES TO THE FORMER MERCHANT MARINE AND FISHERIES COMMITTEE

Section 8 of the bill conforms certain permanent laws of the United States relating to the Coast Guard and maritime transportation by correcting references to the former Merchant Marine and Fisheries Committee of the House of Representatives.

SECTION 9. RESTRICTION ON VESSEL DOCUMENTATION

This section prohibits a vessel, which has been forfeited to the United States government for a breach of the laws of the United States, from obtaining a certificate of documentation with a fish-

eries endorsement. This section does not grant the Coast Guard new authority to seize or forfeit vessels.

SECTION 10. HYPOTHERMIA PROTECTIVE CLOTHING REQUIREMENT

Section 10 of H.R. 2481 requires the Commandant of the Coast Guard to ensure that all Coast Guard personnel are equipped with adequate safety equipment, including hypothermia protective clothing where appropriate, while performing search and rescue missions.

SECTION 11. RESERVE OFFICER PROMOTIONS

Section 11 makes technical amendments regarding the promotion of Coast Guard Reserve Officers to implement the changes to the Reserve promotion system included in the fiscal year 2001 Department of Defense Authorization Act, Public Law 106-398. Section 502 of P.L. 106-398 authorizes the Coast Guard to depart from a running mate system used to determine Reserve officer promotion. Section 11 prescribes a method for determining the date that a promotion becomes effective and establishes the date of rank in the event the Coast Guard promotes a Reserve officer under a system other than the running mate system.

SECTION 12. REGULAR LIEUTENANT COMMANDERS AND COMMANDERS; CONTINUATION UPON FAILURE OF SELECTION FOR PROMOTION

Section 12 of the bill authorizes the Coast Guard to continue commanders and lieutenant commanders scheduled to retire due to failure of selection for promotion. The Coast Guard would use the same process to implement this proposal as it currently uses for lieutenant continuation. Currently, the Coast Guard has no mechanism for retaining on active duty these officers who are not selected for promotion. Section 12 would also authorize lieutenant commanders to remain in active commissioned service for a maximum of 24 years while commanders could remain in service for 26 years. This authority is similar to that available to the Department of Defense.

SECTION 13. RESERVE STUDENT PRE-COMMISSIONING ASSISTANCE PROGRAM

Section 13 of H.R. 2481 authorizes the Coast Guard to pay an individual's undergraduate or graduate educational tuition when that individual enlists in the Coast Guard Reserve and promises to accept a commission in the Coast Guard Reserve upon completion of the degree. The individual would enlist in the Coast Guard Reserve in an inactive duty status while attending college or graduate school and, upon successful completion of the program of study, would be offered a commission as an officer in the Coast Guard Reserve to serve on active duty. The active duty term would be up to five years of obligated active service as well as three years inactive service. If the individual completes the program and refuses to accept a commission, or fails to complete the program, he would have to serve as an enlisted member of the Reserve for up to four years.

The program would provide up to \$25,000 of financial assistance per year per individual. The Coast Guard expects that there would

be 20 to 25 individuals enrolled in the program at any given time. This tuition assistance program is similar to a highly successful Marine Corps program.

SECTION 14. CONTINUATION ON ACTIVE DUTY BEYOND THIRTY YEARS

Section 14 permits the Coast Guard to offer to captains, who would otherwise be forced to retire after thirty years of duty, the opportunity to continue on active duty. This proposal would allow the Coast Guard to retain these highly experienced individuals at very little additional cost.

SECTION 15. PAYMENT OF DEATH GRATUITIES ON BEHALF OF COAST GUARD AUXILIARISTS

Section 15 allows the Coast Guard to pay death gratuities to personal representatives of Coast Guard Auxiliarists who die in the line of duty, to the same extent that death gratuities are paid on behalf of Federal employees.

SECTION 16. ALIGN COAST GUARD SEVERANCE PAY AND REVOCATION OF COMMISSION AUTHORITY WITH DEPARTMENT OF DEFENSE AUTHORITY

Section 16 of H.R. 2481 revises the Coast Guard's severance pay provisions to incorporate the Department of Defense separation pay computations. Severance pay is paid to officers who twice fail to be selected for promotion. This proposal addresses two problems related to the Coast Guard severance pay system. First, it would eliminate severance pay inequities between regular Coast Guard officers and all other members of the service. The Coast Guard currently computes severance pay for regular commissioned officers and regular warrant officers, but relies on DOD separation pay computations for Reserve commissioned officers and Reserve warrant officers. Section 16 would adopt DOD separation pay provisions for the uniform treatment of all of its members.

Section 16 also eliminates a recent trend in which officers request not to be selected for promotion as to qualify for severance pay. This provision prohibits separation pay for any officer who has requested nonselection for promotion, or who has requested removal from the list of selectees once selected.

Finally, section 16 allows the Coast Guard to revoke the commission of a regular officer during the first five years of active commissioned service rather than the current three year time period. This authority is similar to the Department of Defense.

SECTION 17. LONG-TERM LEASE AUTHORITY FOR LIGHTHOUSE PROPERTY

Section 17 authorizes the Coast Guard to lease lighthouse properties for terms not to exceed thirty years. Many Coast Guard lighthouse properties are currently leased to non-profit organizations which make them available to the public for educational, recreational, cultural or historical purposes. Current authority limits leases of Coast Guard property to five years. Non-profit groups operating these facilities need the assurance that they can enter into a long-term lease agreement, thereby justifying the expense of improvements, restoration, and repair of the lighthouse.

SECTION 18. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS

Section 18 of this legislation amends the Maritime Drug Law Enforcement Act (MDLEA) to increase the Coast Guard's drug interdiction jurisdiction from 12 to 24 miles from U.S. shores. In September of 1999, the President extended, by proclamation, the outer limits of the U.S. contiguous zone to 24 nautical miles from the baseline. International law permits the enforcement of certain U.S. laws, including the MDLEA, against certain non-U.S. vessels in the contiguous zone of the U.S. However, the MDLEA does not reflect the expanded jurisdiction permitted by international law and the Presidential proclamation.

This section also clarifies the circumstances under which the government can seize a vessel which participates in illicit drug smuggling.

SECTION 19. WING-IN-GROUND CRAFT

Section 19 grants the Coast Guard statutory authority to regulate wing-in-ground craft and makes them subject to inspection as small passenger vessels. This highly experimental type of craft operates just above the surface of the water on a cushion of air. At the current time, none of these vessels are operating in the U.S. Section 19 would amend the definition of small passenger vessel to include wing-in-ground craft that carry at least one passenger for hire, regardless of tonnage. The provision also defines a wing-in-ground craft as a vessel that is capable of operating completely above the surface of the water on a dynamic air cushion created by aerodynamic lift due to the ground effect between the vessel and the water's surface.

SECTION 20. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS FOR VESSELS

Section 20 of the bill removes the requirement for filing an original commercial instrument (for example, a ship mortgage) within ten days of the electronic filing of the instrument. A bill of sale, conveyance, mortgage, assignment, or related instrument pertaining to any documented vessel must be filed with the Secretary of Transportation to be effective. Electronic filing of such instruments was authorized beginning in 1996. However, in order for the electronic filing to be effective, an original of the instrument must be filed with the Secretary of Transportation within ten days. Section 20 removes the requirement for filing an original instrument. It is hoped that this provision will encourage electronic filing of commercial instruments with the Secretary thus reducing paperwork and delays in documenting vessels. This is a further effort by the Committee to decrease the cost of administering the vessel documentation program. Therefore, by law, the Coast Guard must reduce the "user fees" charged for providing this service. However, the Committee is disturbed that the public has not seen any reduction in user fees in several years despite the fact that the Coast Guard has made changes to the program to reduce program costs, such as by closing 14 documentation offices and reducing staff by almost one-third. The public should not be charged amounts in excess of program costs simply because the Coast Guard takes too long to prescribe new regulations.

SECTION 21. DELETION OF THUMBPRINT REQUIREMENT FOR MERCHANT MARINERS' DOCUMENTS

Section 21 eliminates the requirement for a thumbprint to be placed on a merchant mariner's document (MMD). The thumbprint is no longer needed on the document since it now includes a photograph and must be issued every five years. The result of this change would be to provide the Coast Guard with needed additional space on the MMD to describe mariner qualifications.

SECTION 22. TEMPORARY CERTIFICATES OF DOCUMENTATION FOR RECREATIONAL VESSELS

Section 22 authorizes the Secretary of Transportation to issue temporary certificates of documentation, and to delegate to private third parties the authority to issue the certificates for recreational vessels.

All documented vessels, including recreational vessels, equipped with propelling machinery cannot be operated without a number by the state of principal use or a current certificate of documentation. When documented vessels are sold, their documents are no longer valid. New vessels may not be legally operated without a number or document. Section 22 allows third parties to issue temporary certificates of documentation to recreational vessel owners in a timely manner and at a convenient location. Since the majority of certificates of documentation are for recreational vessels, this provision should ease the workload at the Coast Guard's National Vessel Documentation Center (NVDC). The Coast Guard will also be able to issue certificates of documentation for commercial vessels in a more timely manner.

An owner of a recreational vessel meeting prescribed standards would immediately be issued a temporary certificate of documentation, which would be valid up to 30 days. The temporary document would be sent the NVDC where it would be reviewed. If no problems are identified, the NVDC would then issue a permanent certificate of documentation. Currently, many vessels operate illegally while waiting for issuance of a document. If an undocumented, unnumbered vessel is involved in a casualty, there are no records of ownership to provide information to search and rescue groups or to help establish liability. In some cases vessels awaiting a document also receive a state number and title in order to operate legally. This practice increases the opportunity for fraud, since vessels can then be mortgaged under two separate systems without the knowledge of the mortgagee. Under this program the Coast Guard would establish the maximum fee that could be charged for a temporary certificate of documentation. Because there is no Government cost for the processing or issuance of a temporary document, the cost should be similar to the fees charged by State governments for temporary license plates for motor vehicles.

SECTION 23. MARINE CASUALTY INVESTIGATIONS INVOLVING FOREIGN VESSELS

Section 23 of H.R. 2481 authorizes the Coast Guard to conduct marine casualty investigations involving foreign vessels in areas outside U.S. territorial waters consistent with the practices and procedures of international law. Currently, the Coast Guard can

only investigate marine casualties involving foreign vessels when the casualty occurs within the territorial seas of the United States, generally 12 miles from shore. The only exceptions to this rule include foreign passenger vessels if the marine casualty involves a U.S. citizen and foreign cargo vessels carrying oil within 200 miles of the U.S. coast.

The International Maritime Organization (IMO) Code for the Investigation of Marine Casualties and Incidents provides that Substantially Interested States may take part in marine casualty investigations. Substantially Interested States are generally those with a significant interest in the casualty by reason of the casualty's location, effect on the State's environment, citizens affected, or other circumstances. Because of the Coast Guard's limited statutory investigation authority, the agency is unable to take part in investigations envisioned by the IMO Code. There have been a number of specific cases where foreign countries requested the Coast Guard's assistance in marine casualty investigations and the agency was unable to participate.

Section 23 would amend section 6106 of title 46, United States Code, to authorize the Coast Guard to conduct marine casualty investigations involving foreign vessels, consistent with generally recognized practices and procedures of international law, and the provisions of the IMO Code for the Investigation of Marine Casualties and Incidents.

SECTION 24. CONVEYANCE OF COAST GUARD PROPERTY IN HAMPTON TOWNSHIP, MICHIGAN

Section 24 of the bill requires that the Secretary of Transportation convey the property adjacent to Coast Guard Station Saginaw River, located in Hampton Township, Michigan, to BaySail, Inc., a nonprofit corporation. During the five-year period after the Secretary conveys the property, the property shall revert to the United States if BaySail sells, conveys, assigns, exchanges, or encumbers the property. BaySail also must maintain the property and is not allowed to conduct any commercial activity on the property without the approval of the Secretary.

LEGISLATIVE HISTORY

A bill to improve maritime safety and the quality of life for Coast Guard personnel was introduced as H.R. 2481 by Chairman Young on July 12, 2001, with Mr. Oberstar, Mr. LoBiondo, and Ms. Brown of Florida as cosponsors. The bill was referred to the Committee on Transportation and Infrastructure.

COMMITTEE CONSIDERATION

On July 17, 2001, the Subcommittee on Coast Guard and Maritime Transportation met in open session to mark up H.R. 2481, the Omnibus Maritime Improvement Act of 2001. H.R. 2481 was ordered reported to the Full Committee by voice vote in the presence of a quorum.

On July 18, 2001, the Transportation and Infrastructure Committee met in open session to consider H.R. 2481. The Committee considered three amendments to H.R. 2481. Mr. LoBiondo offered an amendment that included provisions requested by the Coast

Guard concerning drug interdiction, Coast Guard personnel, and maritime safety. The amendment includes provisions designed to improve the Coast Guard's retention of skilled personnel, provide additional authorities to prevent drug smuggling aboard foreign-flag vessels, and allow the Coast Guard to investigate marine casualties involving foreign-flag vessels beyond our territorial seas. Mr. Oberstar offered an amendment which makes several technical changes to H.R. 2481. The amendment also requires the Coast Guard to prescribe minimum standards necessary for the safe operation of all Coast Guard search and rescue center facilities by July 1, 2002. Finally, Mr. Barcia offered an amendment to convey a piece of Coast Guard property located in Hampton Township, Michigan, to BaySail, Inc. All three of these amendments were passed by voice vote. H.R. 2481, as amended by the Committee, was ordered reported to the House of Representatives by a voice vote in the presence of a quorum.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no rollcall votes during Committee consideration of H.R. 2481.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF THE LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the general performance goals and objectives of this legislation are to: (a) eliminate deaths, injuries, and property damage associated with maritime transportation, fishing, and recreational boating; (b) protect our maritime borders from intrusion by halting the flow of illegal drugs, aliens, and contraband as well as suppress violations of Federal law; (c) eliminate environmental damage associated with maritime activities; (d) facilitate maritime commerce; and (e) enhance national security.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2481 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 16, 2001.

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2481, the Omnibus Maritime Improvements Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2481—Omnibus Maritime Improvements Act of 2001

Summary: H.R. 2481 would make several changes to programs and activities carried out by the U.S. Coast Guard (USCG). CBO estimates that the Coast Guard would need additional appropriations of between \$13 million and \$28 million a year through fiscal year 2006 and of \$20 million annually thereafter to implement this legislation. Additional discretionary spending under H.R. 2481 would total about \$90 million over the 2002–2006 period.

The bill also contains provisions that could increase governmental receipts (from civil penalties) and decrease offsetting receipts (from sales of surplus property). As a result, pay-as-you-go procedures would apply, but CBO estimates that any such effects would be less than \$500,000 a year.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government

The estimated impact of H.R. 2481 on the Coast Guard budget is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

Two provisions of H.R. 2481 would result in significant costs to the government, assuming appropriation of the necessary or authorized amounts. The first of these would require the Coast Guard to implement and maintain standards for the safe operation of all search and rescue facilities. CBO estimates that this provision would cost the Coast Guard between \$5 million and \$15 million a year through fiscal year 2004, and about \$20 million annually thereafter. Outlays are estimated to total \$65 million over the 2002–2006 period. The agency would use this money to upgrade its

facilities and increase staffing at search and rescue centers in order to meet existing standards.

The second provision would reauthorize an innovative financing program for Coast Guard housing projects. Under current law, the agency may use loan guarantees, long-term leases, and other financing mechanisms (subject to an appropriation ceiling of \$20 million) to construct military housing through the end of fiscal year 2001. H.R. 2481 would extend the existing program through 2006 and increase the authorization ceiling to \$40 million. Because no funds have ever been appropriated for the financing mechanisms authorized under existing law, CBO estimates that this bill would authorize new discretionary funding of \$40 million. For this estimate, CBO assumes that these funds would be appropriated over the next five years, resulting in outlays of about \$25 million over the 2002–2006 period and the remaining \$15 million over the 2007–2010 period.

Several provisions of H.R. 2481 would result in discretionary costs or savings of less than \$1 million a year, assuming that annual appropriations are increased or reduced accordingly. These provisions would:

- Authorize the appropriation of \$987,400 for payments to the Lower Columbia River Maritime Fire and Safety Association. CBO estimates that this provision would increase federal outlays by about \$200,000 annually over the next five years.
- Authorize the Coast Guard to provide new benefits to certain members of the Coast Guard Reserve and Coast Guard Auxiliary. Specifically, section 13 would allow the agency to provide financial assistance to enlisted Reserve members for educational expenses, at a cost of between \$500,000 and \$650,000 a year (once the program has been phased in). Section 15 would allow the agency to provide a payment to the survivors of a member of the Coast Guard Auxiliary who dies during active duty, at a cost of about \$20,000 annually.
- Require the Coast Guard to ensure that all agency personnel are equipped with appropriate safety equipment such as survival suits, which CBO estimates would cost about \$800,000 over the next year or two.
- Reduce severance payments for certain Coast Guard officers, resulting in savings of about \$900,000 annually.

In addition to provisions affecting the Coast Guard budget, section 3 of the bill would require that federal agencies employ only U.S. flag vessels to lay or maintain submarine cable in U.S. waters. CBO estimates that this provision would probably increase the cost of obtaining cable-laying services for the Departments of Defense and State, but we cannot estimate such costs because they depend on future contract negotiations as well as on the level of service to be required, which is information held confidential by the agencies.

Other bill provisions, most of which would make changes to Coast Guard personnel and regulatory practices, would have no significant effect on discretionary spending.

Direct spending

Section 24 would require the Coast Guard to convey, without consideration, about two acres of land on the Saginaw River in Michigan. Because this property could have been sold under exist-

ing law, enacting this provision could reduce future offsetting receipts from the sale of surplus property. CBO estimates that any such reduction would be less than \$500,000.

Revenues

Section 4 would prohibit foreign-flag vessels from providing towing or escort services in U.S. waters and would establish civil penalties for persons who violate the law. Based on information provided by the Coast Guard, CBO estimates that imposing such penalties could increase governmental receipts, but by less than \$500,000 annually.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO estimates that enacting the provisions in H.R. 2481 regarding the conveyance of land in Michigan would increase direct spending by less than \$500,000. Implementing the bill also could increase receipts from civil penalties, but CBO estimates any additional receipts would not be significant.

Intergovernmental and private-sector impact: H.R. 2481 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal costs: Deborah Reis; impact on State, local, and tribal governments: Susan Tompkins; impact on the private sector: Cecil McPherson.

Estimate approved by: Pete H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article 1, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or

accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 14, UNITED STATES CODE

* * * * *

PART I—REGULAR COAST GUARD

* * * * *

CHAPTER 9—COAST GUARD ACADEMY

* * * * *

§ 194. Annual Board of Visitors

(a) * * *

(b) The Board shall be composed of—

(1) * * *

(2) three Members of the House of Representatives designated by the Chairman of the Committee on **【Merchant Marine and Fisheries】** *Transportation and Infrastructure* of the House of Representatives;

* * * * *

CHAPTER 11—PERSONNEL

OFFICERS

A. APPOINTMENTS

Sec.

211. Original appointment of permanent commissioned officers.

* * * * *

D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

281. Revocation of commissions during first **【three】** *five* years of commissioned service.

* * * * *

286. Discharge in lieu of retirement; **【severance】** *separation* pay.

286a. Regular warrant officers; **【severance】** *separation* pay.

* * * * *

E. SEPARATION FOR CAUSE

* * * * *

327. Officers considered for removal; retirement or discharge; **【severance】** *separation* benefits.

* * * * *

D. Discharges; Retirements; Revocation of Commissions

* * * * *

§ 281. Revocation of commissions during first ~~three~~ five years of commissioned service

The Secretary, under such regulations as he may prescribe, may revoke the commission of any regular officer on active duty who, at the date of such revocation, has had less than ~~three~~ five years of continuous service as a commissioned officer in the Regular Coast Guard.

* * * * *

§ 283. Regular lieutenants; separation for failure of selection for promotion; continuation

(a) * * *

(b)(1) * * *

(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

(A) except as provided in subparagraph (B), be honorably discharged with ~~severance~~ separation pay computed under section 286 of this title;

* * * * *

§ 285. Regular lieutenant commanders and commanders; retirement for failure of selection for promotion

(a) Each officer of the Regular Coast Guard serving in the grade of lieutenant commander or commander, who has failed of selection for promotion to the grade of commander or captain, respectively, for the second time shall:

(1) * * *

* * * * *

(b) *A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.*

(c)(1) *An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.*

(2) *Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b) but is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion*

to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.

§ 286. Discharge in lieu of retirement; [severance] separation pay

(a) * * *

[(b) Each officer discharged under this section or under section 282, 283, or 284 of this title is entitled to a lump-sum payment computed by multiplying his years of active commissioned service, but not more than twelve, by two months' basic pay of the grade in which he is serving on the date of his discharge. In determining the total number of years of active service to be used as a multiplier in computing this payment, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded. The acceptance of a lump-sum payment under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received payment under this section until the total amount deducted equals the amount of the lump-sum payment.]

(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title who has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title, who has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10 as determined under regulations promulgated by the Secretary.

(d) Notwithstanding subsections (a) or (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.

§ 286a. Regular warrant officers: [severance] separation pay

[(a) The severance pay of a regular warrant officer of the Coast Guard who is separated under section 580(a)(4)(A) of title 10 is computed by multiplying his years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended, but not more than 12, by twice the monthly basic pay to which he is entitled at the time of separation.

[(b) The severance pay of a regular warrant officer of the Coast Guard who is separated under section 1166 of title 10 is computed by multiplying his years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended, but not more than 12, by the monthly basic pay to which he is entitled at the time of separation, unless the Secretary deter-

mines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.

[(c) For the purposes of this section, a part of the year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.]

(a) *A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.*

(b) *A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.*

(c) *In determining a member's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.*

* * * * *

§ 289. Captains; continuation on active duty; involuntary retirement

(a) * * *

* * * * *

(h) *Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain the officer under this subsection.*

* * * * *

E. Separation for Cause

* * * * *

§ 327. Officers considered for removal; retirement or discharge; [severance] separation benefits

(a) At any time during proceedings under section 322 or 323 of this title, and before the removal of an officer, the Secretary may grant a request—

(1) for voluntary retirement, if the officer is otherwise qualified therefor; or

[(2) for honorable discharge with severance benefits under subsection (b) in those cases arising under clause (1) of section 321 of this title; or

[(3) for discharge with severance benefits under subsection (b) in those cases arising under clause (2) of section 321 of this title.]

(2) *for discharge with separation benefits under section 286(c) of this title.*

(b) Each officer removed from active duty under section 326 of this title shall—

(1) if on the date of removal the officer is eligible for voluntary retirement under any law, be retired in the grade for which he would be eligible if retired at his request; or

[(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month's basic pay of that grade, in those cases arising under clause (1) of section 321 of this title; or

[(3) if on that date the officer is ineligible for voluntary retirement under any law, be discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month's basic pay of that grade, in those cases arising under clause (2) of section 321 of this title, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.]]

(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge.

* * * * *

CHAPTER 17—ADMINISTRATION

Sec.

631. Delegation of powers by the Secretary.

* * * * *

672. Long-term lease authority for navigation and communications systems sites.

672b. *Long-term lease authority for lighthouse property.*

* * * * *

676. Search and rescue center standards.

* * * * *

§ 663. Submission of plans to Congress

The President shall submit to Congress with each budget request for the Coast Guard the current copy of the Coast Guard's Capital Investment Plan, Cutter Plan, Aviation Plan, Shore Facilities Plan, and Information Resources Management Plan. Not later than 30 days after the date on which the President submits to the Congress a budget under section 1105 of title 31 which includes a proposed 2-year budget for the Coast Guard, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on [Merchant Marine and Fisheries] *Transportation and Infrastructure* and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for the fiscal years covered by such proposed 2-year budget.

§ 664. User fees

(a) * * *

* * * * *

(c) Before January 1 of each year, the Secretary shall submit a report to the Committee on [Merchant Marine and Fisheries] *Transportation and Infrastructure* of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that includes—

(1) * * *

* * * * *

§ 672b. Long-term lease authority for lighthouse property

(a) *The Commandant of the Coast Guard may lease to non-Federal entities, including private individuals, lighthouse property under the administrative control of the Coast Guard for terms not to exceed 30 years. Consideration for the use and occupancy of lighthouse property leased under this section, and for the value of any utilities and services furnished to a lessee of such property by the Commandant, may consist, in whole or in part, of non-pecuniary remuneration including, but not limited to, the improvement, alteration, restoration, rehabilitation, repair, and maintenance of the leased premises by the lessee. Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b) shall not apply to leases issued by the Commandant under this section.*

(b) *Amounts received from leases made under this section, less expenses incurred, shall be deposited in the Treasury.*

* * * * *

§ 676. Search and rescue center standards

(a) *The Secretary shall establish, implement, and maintain the minimum standards necessary for the safe operation of all Coast Guard search and rescue center facilities, including with respect to the following:*

(1) *The lighting, acoustics, and temperature in the facilities.*

(2) *The number of individuals on a shift in the facility assigned search and rescue responsibilities (including communications), which may be adjusted based on seasonal workload.*

(3) *The length of time an individual may serve on watch to minimize fatigue, based on the best scientific information available.*

(4) *The scheduling of individuals having search and rescue responsibilities to minimize fatigue of the individual when on duty in the facility.*

(5) *The workload of each individual engaged in search and rescue responsibilities in the facility.*

(6) *Stress management for the individuals assigned search and rescue responsibilities in the facilities.*

(7) *The design of equipment and facilities to minimize fatigue and enhance search and rescue operations.*

(8) *Any other requirements that the Secretary believes will increase the safe operation of the search and rescue centers.*

(b) *An individual on duty or watch in a Coast Guard search and rescue center facility, including a communications center, may not*

work more than 12 hours in a 24-hour period except in an emergency.

CHAPTER 18—COAST GUARD HOUSING AUTHORITIES

* * * * *

§ 681. General authority

(a) **AUTHORITY.**—In addition to any other authority providing for the acquisition or construction of military family housing or military unaccompanied housing, the Secretary may exercise any authority or any combination of authorities provided under this chapter in order to provide for the acquisition or construction by private persons, *including a small business concern qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a))*, of the following:

(1) * * *

* * * * *

§ 687. Coast Guard Housing Fund

(a) * * *

* * * * *

(f) **LIMITATION ON AMOUNT OF BUDGET AUTHORITY.**—The total value in budget authority of all contracts and investments undertaken using the authorities provided in this chapter shall not exceed **[\$20,000,000] \$40,000,000**.

(g) **DEMONSTRATION PROJECT AUTHORIZED.**—*To promote efficiencies through the use of alternative procedures for expediting new housing projects, the Secretary—*

(1) *may develop and implement a Demonstration Project for acquisition or construction of military family housing and military unaccompanied housing at the Coast Guard installation at Kodiak, Alaska;*

(2) *in implementing the Demonstration Project shall utilize, to the maximum extent possible, the contracting authority of the Small Business Administration's section 8(a) program;*

(3) *shall, to the maximum extent possible, acquire or construct such housing through contracts with small business concerns qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) that have their principal place of business in the State of Alaska; and*

(4) *shall report to Congress by September 1 of each year on the progress of activities under the Demonstration Project.*

* * * * *

§ 689. Expiration of authority

The authority to enter into a transaction under this chapter shall expire October 1, **[2001] 2006**.

* * * * *

PART II—COAST GUARD RESERVE AND AUXILIARY

* * * * *

CHAPTER 21—COAST GUARD RESERVE

SUBCHAPTER A

GENERAL

Sec.

701. Organization.

* * * * *

709. Reserve student aviation pilots; reserve aviation pilots; appointments in commissioned grade.

709a. *Reserve student pre-commissioning assistance program.*

* * * * *

§ 709a. Reserve student pre-commissioning assistance program

(a) *The Secretary may provide financial assistance to an eligible enlisted member of the Coast Guard Reserve, not on active duty, for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—*

(1) *a baccalaureate degree in not more than five academic years; or*

(2) *a post-baccalaureate degree.*

(b)(1) *To be eligible for financial assistance under this section, an enlisted member of the Coast Guard Reserve must—*

(A) *be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and*

(B) *enter into a written agreement with the Coast Guard described in paragraph (2).*

(2) *A written agreement referred to in paragraph (1)(B) is an agreement between the member and the Secretary in which the member agrees—*

(A) *to accept an appointment as a commissioned officer in the Coast Guard Reserve, if tendered;*

(B) *to serve on active duty for up to five years; and*

(C) *under such terms and conditions as shall be prescribed by the Secretary, to serve in the Coast Guard Reserve until the eighth anniversary of the date of the appointment.*

(c) *Expenses for which financial assistance may be provided under this section are—*

(1) *tuition and fees charged by the institution of higher education involved;*

(2) *the cost of books;*

(3) *in the case of a program of education leading to a baccalaureate degree, laboratory expenses; and*

(4) *such other expenses as deemed appropriate by the Secretary.*

(d) *The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed \$25,000 for any academic year.*

(e) *Financial assistance may be provided to a member under this section for up to five consecutive academic years.*

(f) *A member who receives financial assistance under this section may be ordered to active duty in the Coast Guard Reserve by the Secretary to serve in a designated enlisted grade for such period as*

the Secretary prescribes, but not more than four years, if the member—

(1) completes the academic requirements of the program and refuses to accept an appointment as a commissioned officer in the Coast Guard Reserve when offered;

(2) fails to complete the academic requirements of the institution of higher education involved; or

(3) fails to maintain eligibility for an original appointment as a commissioned officer.

(g)(1) If a member requests to be released from the program and the request is accepted by the Secretary, or if the member fails because of misconduct to complete the period of active duty specified, or if the member fails to fulfill any term or condition of the written agreement required to be eligible for financial assistance under this section, the financial assistance shall be terminated. The member shall reimburse the United States in an amount that bears the same ratio to the total cost of the education provided to such person as the unserved portion of active duty bears to the total period of active duty such person agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty.

(2) The Secretary may waive the service obligated under subsection (f) of a member who is not physically qualified for appointment and who is determined to be unqualified for service as an enlisted member of the Coast Guard Reserve due to a physical or medical condition that was not the result of the member's own misconduct or grossly negligent conduct.

(h) As used in this section, "institution of higher education" has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

* * * * *

SUBCHAPTER B

§ 729. Promotion; recommendations of selection boards

(a) * * *

* * * * *

(i) A Reserve officer whose name is on a list of selectees for promotion shall, unless that officer's promotion is lawfully withheld, be tendered an appointment in the next higher grade *on the date a vacancy occurs, or as soon thereafter as practicable, in the grade to which the officer was selected for promotion, or if promotion was determined in accordance with a running mate system*, at the same time, or as soon thereafter as practicable, as that officer's running mate is tendered a similar appointment.

* * * * *

§ 731. Establishment of promotion zones under running mate system

(a) * * *

(b) CONSIDERATION FOR PROMOTION.—If promotion zones are determined as authorized under subsection (a), a Reserve officer shall, subject to the eligibility requirements of this subchapter, be placed in a promotion zone when that officer's running mate is

placed in a promotion zone and shall, in accordance with the provisions of this subchapter, be considered for promotion at approximately the same time as that officer's running mate or as soon thereafter as practicable[.], *or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he or she completes the following amount of service computed from the date of rank in the grade in which he or she is serving:*

- (1) *two years in the grade of lieutenant (junior grade);*
- (2) *three years in the grade of lieutenant;*
- (3) *four years in the grade of lieutenant commander;*
- (4) *four years in the grade of commander; and*
- (5) *three years in the grade of captain.*

* * * * *

§ 736. Date of rank upon promotion; entitlement to pay

(a) When a Reserve officer is promoted to the next higher grade under this subchapter, *the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event the same date of rank shall be assigned as that assigned to the officer's running mate.* A Reserve officer so promoted shall be allowed the pay and allowances of the higher grade for duty performed from the date of the officer's appointment thereto.

* * * * *

CHAPTER 23—COAST GUARD AUXILIARY

* * * * *

§ 823a. Members of the Auxiliary; status

(a) * * *

(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

(1) * * *

* * * * *

(9) *On or after January 1, 2001, Public Law 104-208, section 651.*

* * * * *

SECTION 3 OF THE INTERNATIONAL NAVIGATIONAL RULES ACT OF 1977

SEC. 3. (a) * * *

* * * * *

(d)(1) * * *

* * * * *

(3) Any proposed amendment transmitted to the Congress by the President and any resolution of disapproval pertaining thereto shall be referred, in the House of Representatives, to the Com-

mittee on [Merchant Marine and Fisheries] *Transportation and Infrastructure*, and shall be referred, in the Senate, to the Committee on Commerce, Science, and Transportation.

SECTION 5004 OF THE OIL POLLUTION ACT OF 1990

SEC. 5004. VESSEL TRAFFIC SERVICE SYSTEM.

The Secretary of Transportation shall within one year after the date of the enactment of this title—

(1) * * *

(2) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on [Merchant Marine and Fisheries] *Transportation and Infrastructure* of the House of Representatives a report on the feasibility and desirability of instituting positive control of tank vessel movements in Prince William Sound by Coast Guard personnel using the Port of Valdez, Alaska, VTS system, as modified pursuant to paragraph (1).

TITLE 46, UNITED STATES CODE

* * * * *

Subtitle II—Vessels and Seamen

* * * * *

PART A—GENERAL PROVISIONS

CHAPTER 21—GENERAL

* * * * *

§ 2101. General definitions

In this subtitle—

(1) * * *

* * * * *

(35) “small passenger vessel” means *a wing-in-ground craft, regardless of tonnage, carrying at least one passenger for hire, and a vessel of less than 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—*

(A) * * *

* * * * *

(48) *wing-in-ground craft means a vessel that is capable of operating completely above the surface of the water on a dynamic air cushion created by aerodynamic lift due to the ground effect between the vessel and the water’s surface.*

* * * * *

PART D—MARINE CASUALTIES

CHAPTER 61—REPORTING MARINE CASUALTIES

* * * * *

§ 6101. Marine casualties and reporting

(a) * * *

* * * * *

[(e)] (f)(1) This chapter applies to a marine casualty involving a United States citizen on a foreign passenger vessel operating south of 75 degrees north latitude, west of 35 degrees west longitude, and east of the International Date Line; or operating in the area south of 60 degrees south latitude that—

(A) * * *

* * * * *

(g) *To the extent consistent with generally recognized practices and procedures of international law, this part applies to a foreign vessel involved in a marine casualty or incident, as defined in the International Maritime Organization Code for the Investigation of Marine Casualties and Incidents, where the United States is a Substantially Interested State and is, or has the consent of, the Lead Investigating State under the Code.*

* * * * *

CHAPTER 63—INVESTIGATING MARINE CASUALTIES

* * * * *

§ 6307. Notifications to Congress

(a) The Secretary shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on [Merchant Marine and Fisheries] *Transportation and Infrastructure* of the House of Representatives of any hearing, before the hearing occurs, investigating a major marine casualty involving a death under section 6301 of this title.

* * * * *

PART E—MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

* * * * *

CHAPTER 73—MERCHANT MARINERS' DOCUMENTS

* * * * *

§ 7303. Possession and description of merchant mariners' documents

A merchant mariner's document shall be retained by the seaman to whom issued. The document shall contain the signature, notations of nationality, age, and physical description, the photograph, [the thumbprint,] and the home address of the seaman. In addi-

tion, the document shall specify the rate or ratings in which the seaman is qualified to serve.

* * * * *

PART H—IDENTIFICATION OF VESSELS

CHAPTER 121—DOCUMENTATION OF VESSELS

Sec.

12101. Definitions and related terms in other laws.

* * * * *

12103. Certificates of documentation.

12103a. *Issuance of temporary certificate of documentation by third parties.*

* * * * *

§ 12103. Certificates of documentation

(a) Except as provided in section 12123 of this title, on application by the owner of a vessel eligible for documentation, the Secretary of Transportation shall issue a certificate of documentation, or a temporary certificate of documentation, endorsed with one or more of the endorsements specified in sections 12105–12109 of this title.

* * * * *

§ 12103a. *Issuance of temporary certificate of documentation by third parties*

(a) *The Secretary of Transportation may delegate, subject to the supervision and control of the Secretary and under terms set out by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel, if the applicant for the certificate of documentation meets the requirements set out in sections 12102 and 12103 of this chapter.*

(b) *A temporary certificate of documentation issued under section 12103(a) and subsection (a) of this section is valid for up to 30 days from issuance.*

* * * * *

PART H—IDENTIFICATION OF VESSELS

CHAPTER 121—DOCUMENTATION OF VESSELS

* * * * *

§ 12108. Fishery endorsements

(a) A certificate of documentation may be endorsed with a fishery endorsement for a vessel that—

(1) is eligible for documentation;

[(2)(A) was built in the United States; or

[(B) if not built in the United States, was captured in war by citizens of the United States and lawfully condemned as prize, was adjudged to be forfeited for a breach of the laws of the United States, or qualified for documentation under section 4136 of the Revised Statutes (46 App. U.S.C. 14);]

(2) *was built in the United States;*

(3) if rebuilt, was rebuilt in the United States; [and]
 (4) *was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and*
 [(4)] (5) otherwise qualifies under the laws of the United States to be employed in the fisheries.

* * * * *

Subtitle III—Maritime Liability

* * * * *

CHAPTER 313—COMMERCIAL INSTRUMENTS AND MARITIME LIENS

* * * * *

§ 31321. Filing, recording, and discharge

(a)(1) * * *

* * * * *

(4)[(A)] A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

[(B)] A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.】

* * * * *

SECTION 901g OF THE MERCHANT MARINE ACT, 1936

NATIONAL ADVISORY COMMISSION ON AGRICULTURAL EXPORT TRANSPORTATION POLICY

SEC. 901g. (a) * * *

(b)(1) * * *

* * * * *

(3) The chairman and ranking minority members of the Senate Committee on Agriculture, Nutrition, and Forestry, of the Subcommittee on Merchant Marine of the Senate Committee on Commerce, Science, and Transportation, of the House Committee on Agriculture, and of the House Committee on [Merchant Marine and Fisheries] *Transportation and Infrastructure* shall serve as members of the Commission.

* * * * *

SECTION 913 OF THE INTERNATIONAL MARITIME AND PORT SECURITY ACT

SEC. 913. REPORTS.

(a) * * *

(b) SUBMISSION TO COMMITTEES.—The reports required to be submitted to the Congress under this title shall be submitted to the Committee on Foreign Affairs and the Committee on [Merchant

Marine and Fisheries] *Transportation and Infrastructure* of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science and Transportation of the Senate.

MARITIME DRUG LAW ENFORCEMENT ACT

SEC. 3. (a) * * *

* * * * *

(c)(1) For purposes of this section, a “vessel subject to the jurisdiction of the United States” includes—

(A) * * *

* * * * *

(D) a vessel located within the customs waters of the United States; **[and]**

(E) a vessel located in the territorial waters of another nation, where the nation consents to the enforcement of United States law by the United States**[.]**; *and*

(F) *a vessel located in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999, and (i) is entering the United States, (ii) has departed the United States, or (iii) is a hovering vessel as defined in 19 U.S.C. 1401(k).*

* * * * *

SEC. 3. (a) Any property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881).

(b) *Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under this chapter, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, inter alia, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of an offense under this chapter:*

(1) *The construction or adaptation of the vessel in a manner that facilitates smuggling, including—*

(A) *the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;*

(B) *the presence of any compartment or equipment which is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;*

(C) *the presence of an auxiliary tank not installed in accordance with applicable law, or installed in such a manner as to enhance the vessel’s smuggling capability;*

(D) *the presence of engines that are excessively over-powered in relation to the design and size of the vessel;*

(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection;
or

(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation, and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage, or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on a person aboard the vessel, of a quantity or other nature which reasonably indicates manufacturing or distribution activity.

(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.